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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

LANCE D. LINTON, SR.,

Petitioner,

vs.

FRANK LUNA, et al.,

Respondents.

Case No. 3:07-cv-0051-RRB-DMS

**UNOPPOSED MOTION FOR 18-DAY
EXTENSION TO FILE REPLIES TO
LUNA'S THREE OPPOSITIONS TO
MOTIONS (DOCKETS 85, 86, 87)
*Filed on Shortened Time***

Petitioner Lance D. Linton, Sr., by and through counsel Averil Lerman, Staff Attorney, moves this court for an 18-day extension of time to file replies to Respondent Luna's Oppositions to Mr. Linton's motions for discovery, for expanding the record, and for evidentiary hearing, found at Docket 85, 86, and 87.

Petitioner Linton's motions were filed on January 15, 2009. Respondent Luna's oppositions were filed on Friday, February 27, 2009. Mr. Linton's replies are due today, March 9, 2009.

Undersigned counsel has begun the process of responding to the three oppositions, but is not close to completion. The oppositions raise substantive matters that require substantive replies. On the same day that the state's oppositions were received, undersigned counsel received an order from the Ninth Circuit Court of Appeals granting a motion for certificate of appealability in *Wright v. Volland*, No. 08-35724, and stating that the opening brief and excerpt were due in that case on Friday, March 13, 2009. The case has been expedited because it is a pretrial habeas appeal. Preparation of that appeal brief and excerpt consumed much of last week, and will take the entirety of this week.

One week later, on April 20, 2009, counsel is to file the opposition to the state's motion to dismiss in *Allen v. Stolc*, Case No. 3:08-cv-0039. Preparation of that pleading, in addition to the other duties required of undersigned counsel, will require all of next week.

Accordingly, counsel requests that the date for reply to these three oppositions be extended until Friday, April 27, 2009.

In addition to the major projects described above, counsel has also been dealing with numerous calls from state inmates whose state appeals have just been decided by the issuance of the Alaska Supreme Court's decision in *Smart v. State*, __ P.2d __, 2009 WL 484429 (February 27, 2009), in which the Alaska Supreme Court reversed the intermediate appellate court's decision that *Blakely* was retroactive in Alaska. The Alaska Public Defender sent a letter to more than 200 clients suggesting that they call the Federal Public Defender for further assistance. Responding to the influx of calls has been, and is expected to be, time-consuming. Further, the Alaska Legislature is addressing a bill to reinstate the death penalty in Alaska. Undersigned counsel has been active in speaking and acting in connection with this bill, a bill which very directly impacts on the

administration of justice and on the nature of the state and federal courts in Alaska. This process is expected to continue for some time.

Undersigned counsel spoke to Ann Black on the telephone this morning, who stated that the state has no opposition to this request.

DATED this 9th day of March, 2009.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
FOR THE DISTRICT OF ALASKA

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Certification:

I certify that on March 9, 2009,
a copy of the foregoing document
was served electronically on:

Ann B. Black, Esq.

/s/ Averil Lerman